



DAC/TFW
#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

ROSCHKE *et al.*

Patent No.: US 7,175,988 B2
(from Appl. No.: 10/067,800)
Issued: February 13, 2007

For: **Human G-Protein Chemokine
Receptor (CCR5) HDGMR10**

Confirmation No. 8493

Art Unit: 1649

Examiner: Sharon L. Turner

Atty. Docket: 1488.115000L/EKS/HCC

**Request for Reconsideration of Patent Term Adjustment
Determination Under 37 C.F.R. § 1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop Patent Ext.

Sir:

Pursuant to 37 C.F.R. §§ 1.705(b)(1), (b)(2), and (d), Patentees provide a concise statement of facts involved, as well as payment of fees set forth in 37 C.F.R. § 1.18(e).

Statement of the Facts:

Patentees hereby request that the Patent Term Adjustment for the captioned patent be corrected to allow an addition of 62 days to the current Patent Term Adjustment of 538 days, such that the total Patent Term Adjustment is 600 days.

The U.S. Patent and Trademark Office (PTO) issued the captioned patent on February 13, 2007. The patent contains a determination of Patent Term Adjustment under 35 U.S.C. § 154(b) of five-hundred thirty eight (538) days.

According to PAIR, the calculation of 538 days is based on a PTO delay of 735 days, combined with a USPTO Adjustment of 28 days, and reduced by an Applicant delay of 225 days.

04/13/2007 JADD02 00000001 7175988

01 FC:1455

200.00 0P

Patentees believe that the Applicant delay of 225 days should be decreased by 62 days to 163 days. PAIR indicates that an Applicant delay of 225 days is based on the following:

1. The filing of an Information Disclosure Statement (IDS) on February 15, 2005, after the filing on January 3, 2005 of the Response to the Restriction Requirement (43 days);
2. The filing of an IDS on February 1, 2006, after the filing on December 5, 2005 of an Amendment after Final Rejection (120 days); and
3. The filing of an Amendment after Notice of Allowance on December 14, 2006, after the mailing of a Notice of Allowance on January 12, 2006 (62 days).

Patentees believe that the information currently recorded in the PAIR system correctly indicates an Applicant delay of 43 days caused by item (1), Applicants' filing of the IDS on February 15, 2005.

However, the information currently recorded in the PAIR system regarding items (2) and (3) appears to be incorrect. For item (2), the IDS filed on February 1, 2006 was filed with a statement under 37 C.F.R. § 1.704(d) that the listed item was cited in a communication from a foreign patent office in a counterpart application that was not received by any individual designated in 37 C.F.R. § 1.56(c) more than 30 days prior to the filing of the IDS. Therefore, the Applicant delay in this instance should be calculated as 0 days rather than 120 days. 37 C.F.R. § 7.04(11)(d).

For item (3), the filing of an Amendment after Notice of Allowance, the PAIR system indicates that this paper was filed on December 14, 2006, when it actually was filed on May 11, 2006. This paper, a Statement of the Substance of the Interview ("Statement"), was filed as a result of a PTO Interview Summary faxed on April 12, 2006, which required Applicants to file a statement of the substance of the interview within a specified, non-extendable time period. As outlined in the Statement, although Applicants believed that the requirement was in error due to the fact that the

Interview involved no substantive matters, Applicants nevertheless filed the Statement to avoid the inadvertent abandonment of the application. In response to the Statement, the PTO mailed a notice on January 9, 2007. Since the period between the filing of the Statement and the mailing of the notice is greater than 4 months, the Applicant delay for filing the statement should be calculated as 120 days (4 months) rather than 62 days. 37 C.F.R. § 7.04(10).

Thus, the total Applicant delay should be 163 days (43 days plus 120 days) rather than 225 days.

Other than the above-mentioned Applicant delays of 43 days for item (1) and 120 days for item (3), Patentees do not believe there were any additional circumstances during the prosecution of the application that constituted a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704(c).

The above-captioned application is not subject to a terminal disclaimer. 37 C.F.R. § 1.705(b)(2)(iii).

The Precise Relief Requested:

In view of above, Patentees are entitled to a patent term adjustment of a total of 600 days (763 days reduced by 163 days).

In accordance with 37 C.F.R. § 1.705(b)(1), the fee set forth in 37 C.F.R. § 1.18(e) is provided in our accompanying Credit Card Payment Form PTO-2038. It is not believed that additional fees are required beyond those that may otherwise be provided in documents accompanying this paper. However, if additional fees are required, the U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

If it is believed, for any reason, that personal communication will expedite consideration of this Request, please do not hesitate to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Request is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
Agent for Patentees
Registration No. 47,473

Date: April 12, 2007

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

661606_1.DOC